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**STATUTE OF FRAUDS — CONTRACTS NOT TO BE PERFORMED WITHIN ONE YEAR — SPECIFIC PERFORMANCE OF AGREEMENT TO REDUCE TO WRITING DENIED.** — The plaintiff and defendant entered into an oral contract which was not to be performed within one year. There was also an oral agreement to reduce the contract to writing. Plaintiff seeks specific performance of this latter agreement. *Held*, that the agreement is within the Statute of Frauds and will not be specifically enforced. *Clark v. City of Bradford Gas & Power Co.*, 98 Atl. 368 (Del.).

Technically the agreement to reduce the main contract to writing is not within the statute, for it may be performed within one year. But as a practical matter, the recognition of such an agreement as valid would be tantamount to taking the main contract out of the statute. For this reason, courts of law treat the two contracts as inseparable, and refuse to give damages for a breach. *McLachlin v. Village of Whitehall*, 114 App. Div. 315, 99 N. Y. Supp. 721. See BROWN, STATUTE OF FRAUDS, 5 ed., § 284. Nor will equity specifically enforce such a contract. *Sarkisian v. Teele*, 201 Mass. 596, 88 N. E. 333; *Henderson v. Henrie*, 68 W. Va. 562, 71 S. E. 172. See *McKinley v. Lloyd*, 128 Fed. 519, 521. If the plaintiff has been induced by actual fraud of the defendant to dispense with a written memorandum, specific enforcement will be granted. *Peek v. Peek*, 77 Cal. 106, 19 Pac. 227. But see *Box v. Stanford*, 13 Sm. & M. (Miss.) 93. But mere breach of promise to reduce the agreement to writing does not constitute such a fraud. *Caylor v. Roe*, 99 Ind. 1.

**STATUTES — INTERPRETATION — “ADDED” AND “MIXED” INGREDIENTS WITHIN THE PURE FOOD ACTS.** — The Food and Drugs Act prohibits the manufacture of food containing an “added deleterious ingredient which may render such article injurious to health.” 34 STAT. AT LARGE, 768. Under this Act a quantity of Coca Cola was libeled. The formula for Coca Cola includes caffeine. *Held*, that the caffeine was an “added ingredient” within the meaning of the Act. *U. S. v. Forty Barrels of Coca Cola*, 36 Sup. Ct. Rep. 573.

The English Sale of Food and Drugs Act enacts that “no person shall mix any article of food with any ingredient or material so as to render the article injurious to health,” and that “no person shall sell any such article so mixed.” 38 & 39 VICT. c. 63. Under this Act the defendant was prosecuted for selling “preserved cream,” a well-known commodity, made up of cream and boric acid. *Held*, that the boric acid was a “mixed” ingredient within the meaning of the Act. *Haigh v. Aerated Bread Company*, 114 L. T. R. 1000 (K. B.).

In both cases the objectionable ingredient was an essential element of the food. Counsel therefore argued that it couldn't be “mixed” or “added,” as it constituted the food itself, and was so understood by the public. But the courts refused to give the words “added” and “mixed” any significance. Now it is a rule of construction that, whenever possible, effect should be given to every word of a statute. See *Market Co. v. Hoffman*, 101 U. S. 112, 115; *Bend v. Hoyt*, 13 Pet. 263, 272. But this will not be done at the expense of defeating the intent of the act. See *Cearfoss v. State*, 42 Md. 403. The decision therefore in these cases really rests on the imputed intent of the legislature to pass a general health measure and not merely protect the public from injurious deception. In neither case is the intent obvious. But in the American case the purpose of Congress appears to be especially obscure. *Cf. U. S. v. Forty Barrels of Coca Cola*, 215 Fed. 535, 539, with *French, etc. Co. v. U. S.*, 179 Fed. 824, 825, and *U. S. v. Lexington, etc. Co.*, 232 U. S. 399, 409.

**TAXATION — PARTICULAR FORMS OF TAXATION — INCOME TAX: TAX ON THE INCOME OF A PERSON DYING BEFORE THE PASSAGE OF THE LAW.** — The Federal Income Tax became a law October 3, 1913. It provided that incomes should be taxable from March 1, 1913. The plaintiff's testator died July 22,

1913. *Held*, that his income may be taxed from March 1 until his death. *Brady v. Anderson*, 55 N. Y. L. J. 1999 (U. S. Dist. Ct., S. D., N. Y.).

A tax law is always construed as having only a prospective effect if that construction is possible. *State v. Newark*, 40 N. J. L. 92. The specific provision to the contrary bars this construction of the income tax law. The court in the main case construes this provision to apply even when the person whose income is taxed has died before the law was passed. If this construction involves serious constitutional doubt, it should not be adopted if the language of the act will reasonably bear another. It is true that a tax on income can be measured retrospectively by the income of the preceding year. *Stockdale v. Insurance Co.*, 20 Wall. (U. S.) 323. In fact it has been held so under this very law. *Brushaber v. Union Pacific R. Co.*, 240 U. S. 1. But it would seem that the basis of such decision is the fact that in reality the tax is on the person, and that the income of the preceding year is a fair measurement for such a tax. See FOSTER, INCOME TAX, 2 ed., 111, 115. This is true also of property taxes. *People v. Seymour*, 16 Cal. 332; *People v. Spring Valley Hydraulic Gold Co.*, 92 N. Y. 383. The language of some courts would even seem to put a tax on realty in the same category. *Rundell v. Lakey*, 40 N. Y. 513; *Succession of Mercier*, 42 La. Ann. 1135, 1142, 8 So. 732, 734. If, similarly, an income tax is a tax on the person, the principal case, in taxing a dead man, is certainly novel. The physical possibility of such a tax is not easy to grasp; but even if possible, it would seem unconstitutional, being a tax for protection he can never enjoy. If, however, the tax is upon the transfer of wealth, then the rule in inheritance taxes, that as the privilege is already enjoyed it cannot be taxed retroactively, must apply. *Matter of Pell*, 171 N. Y. 48, 63 N. E. 789; *Case of Lansing*, 182 N. Y. 238, 74 N. E. 882. If, however, the third possibility is the case, and this tax is a tax on income as property, still it would be unconstitutional, if for no other reason than that it is a direct tax not apportioned among the states. For the Sixteenth Amendment refers only to income, and when the law in the principal case was passed the income had already become capital. It has been held that the income of a person who dies during the year may be taxed, under a law already in force during the entire year, for the proportion of the year during which he was living. *Mandell v. Pierce*, 3 Cliff. (U. S. C. C.) 134. But in that case there was both a person in existence and income coming in during a period when the tax law was in force.

TREASON — JURISDICTION — BREACH OF ALLEGIANCE COMMITTED ABROAD. — An indictment was brought against Casement for high treason charging adherence to the king's enemies in Germany. There was a motion to quash the indictment. *Held*, motion refused. *Rex v. Casement*, 32 Times L. R. 667.

Nations vary greatly in the extent to which they claim jurisdiction over crimes committed outside their kingdom. See HOLLAND, ELEMENTS OF JURISPRUDENCE, 9 ed., 400 *et seq.* In general the jurisdiction of the English common law has been strictly territorial. See *MacLeod v. Attorney-General for New South Wales*, [1891] A. C. 455, 458. This limitation, it is interesting to note, is apparently a result of the feudal conception of land-allegiance. See MAINE, ANCIENT LAW, 5 ed., 102. However, the feudal system also demanded personal allegiance. And a breach of allegiance will naturally be apt to occur outside the territorial control of the sovereign. Wherefore, even in the earliest times it is to be noted that in case of treason, jurisdiction was personal. See 1 HALE, PLEAS OF THE CROWN, 159 *et seq.*; 2 HAWKINS, PLEAS OF THE CROWN, 306; 3 COKE, INSTITUTES, c. 1, pp. 10-11. In recent times, however, England has extended this theory of personal jurisdiction, by statute, to cases of murder, manslaughter, or bigamy. See 24 & 25 VICT. c. 100, §§ 9, 57. Undoubtedly in this country the constitutional provision as to treason would be construed to confer an equally extensive jurisdiction.